

SUPREME COURT OF THE UNITED STATES

Pamela McKethan,

Petitioner,

v.

GSLS GA, LLC

Respondent

**ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF GEORGIA**

**BRIEF IN OPPOSITION TO PETITION FOR
WRIT OF CERTIORARI**

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NO. 25A719

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Appendix B:

PT-61 060-2012-045191

Appendix C:

PT-61 060-2013-006495

Appendix D:

Affidavit of EFT of Pamela McKethan recorded
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Fulton County Georgia records

Appendix E:

Deed Under Power of Sale recorded March 1, 2013,
Book 52329, Page 633 in the Fulton County Georgia
records

Appendix F:

Affidavit of Property recorded April 30, 2013, Book
52560, Page 509 in the Fulton County Georgia
records

Appendix G:

Georgia Court of Appeals Judgment entered March
14, 2025, Appeal A24A1444

NO. 25A719

**BRIEF IN OPPOSITION TO
PETITION FOR CERTIORARI**

COMES NOW GSLS GA, LLC (“Respondent”), and files its Response to Petitioner Pamela McKethan’s Petition for Writ of Certiorari, and shows this honorable Court the following:

STATEMENT OF FACTS

1.

Petitioner Pamela McKethan acquired the real property known as 7 Cross Street, Atlanta, Georgia n/k/a 2407 Cross Street, Atlanta, Georgia 30308 (the “Property”) via the Warranty Deed (the “Warranty Deed”) recorded in the Fulton County, Georgia records on October 23, 2003, in Book 36334, Page 144.

2.

On or about April 13, 2006, to secure a Note, Petitioner McKethan executed a Security Deed in

favor of MERS as nominee for Southstar Funding, LLC (the “Security Deed”), conveying the Property as security. The Security Deed was recorded in the Fulton County records on June 9, 2006, at Book 42758, Page 155. [Appendix A].

3.

On April 11, 2007, Southstar Funding, LLC filed for Chapter 7 bankruptcy relief in the United States Bankruptcy Court for the Northern District of Georgia, Chapter 7 Case No. 07-65842-PWB (the “Southstar Bankruptcy”). On March 10, 2010, the Bankruptcy Court entered an Order Granting Motion to Approve Abandonment of Interest of Estate in Mortgage Loans (the “Bankruptcy Abandonment Order”), abandoning any interest of the bankruptcy estate’s interest in Southstar’s mortgage loans. [Petitioner’s Appendix F3].

4.

The Security Deed was assigned to Respondent GSLS by the Corporate Assignment of Security Deed (the “Assignment”) executed by MERS as nominee for Southstar Funding. The Assignment was recorded in the Fulton County records on December 4, 2012, at Book 51970, Page 337. [Petitioner’s Appendix F4].

5.

Petitioner McKethan defaulted under the terms of the Security Deed, and on or about October 12, 2012, Respondent GSLS sent a letter to Petitioner McKethan that enclosed a Notice of Sale Under Power for a foreclosure sale scheduled for January 2, 2013. That letter sent via certified mail was returned as undeliverable as addressed, indicating that the Property was vacant. [Petitioner’s Appendix E - 1].

6.

On or about December 7, 2012, Petitioner McKethan executed a Deed Into Land, conveying the Property to Greg Shaw as Trustee of the Fulton Cross Trust (“Trustee Shaw”). The Deed was recorded in the Fulton County deed records on December 10, 2012, at Book 51995, Page 165. In connection with the conveyance, a Real Estate Tax Declaration Form was filed, PT-61 060-2012-045191 (the “PT-61”). The PT-61 identifies the Property as 2407 Cross Street, Atlanta, Georgia, Map & Parcel Number 14-0208-0009-011-9. [Appendix B].

7.

On or about December 7, 2012, Petitioner McKethan executed and delivered a Warranty Deed to Trustee Shaw, conveying the Property. The Warranty Deed was recorded in the Fulton County records on January 29, 2013, at Book 52195, Page 9, and re-

recorded on October 9, 2013, at Book 53225, Page 392. In connection with the conveyance, a second PT-61 was filed, PT-61 060-2013-006495 (the “2nd PT-61”). The 2nd PT-61 identifies the Property as 2407 Cross Street, Atlanta, Georgia, Map & Parcel Number 14-0208-0009-011-9. [Appendix C].

8.

On December 28, 2012, Petitioner McKethan executed an Affidavit of EFT of Pamela McKethan (the “EFT Affidavit”). The EFT Affidavit was recorded in the Fulton County records on December 28, 2012, in Book 52071, Page 521. The third page of the EFT Affidavit (Book 52071, Page 523) contains a copy of the check Petitioner McKethan sent to Respondent GSLS. The check is dated December 6, 2012, and above the date is written: “Re: Property Address: 2407 Cross St. NW, Atlanta, GA 30318.” [Appendix D].

9.

Petitioner McKethan defaulted under the terms of the Security Deed, and on or about January 4, 2013, Respondent GSLS sent a letter to Petitioner McKethan that enclosed a Notice of Sale Under Power for a foreclosure sale scheduled for February 5, 2013 (the “Notice of Sale Letter”). [Petitioner’s Appendix E, 2-5].

10.

A foreclosure sale of the Property was conducted on February 5, 2013. Respondent GSLS purchased the Property at the foreclosure sale. The Deed Under Power of Sale was recorded in the Fulton County records on March 1, 2013, at Book 52329, Page 633. [Appendix E].

11.

On or about April 30, 2013, Petitioner McKethan executed an Affidavit of Property (the

“Affidavit of Property”). The Affidavit of Property identifies the Property as “7 Cross St., Atlanta, GA 30318 (2407 Cross St., Atlanta GA 30318).” The Affidavit of Property was recorded in the Fulton County, Georgia records on or about April 30, 2013, in Book 52560, Page 509. [Appendix F].

RELEVANT PROCEEDINGS BELOW

2017CV285623:

On February 3, 2017, Appellant McKethan filed a complaint against Appellee GSLS in the Superior Court of Fulton County, Case No. 2017CV285623 (the “2017 Complaint”) for conversion, unjust enrichment, trover, and wrongful foreclosure. Appellee GSLS filed a Motion for Summary Judgment, to which Appellant McKethan responded. On August 8, 2018, the court entered an Order Granting Defendant’s Motion for Summary Judgment (the “2017 Order”) [Petitioner’s Appendix G].

Appellant McKethan appealed the 2017 Order to the Court of Appeals of Georgia, where it was docketed on April 15, 2019, as Appeal No. A19A1859. On February 10, 2020, the Court of Appeals affirmed the Superior Court’s August 8, 2018 Order. On February 26, 2020, Appellant McKethan filed a Petition for Certiorari in the Supreme Court of Georgia, where it was docketed as Case No. S20C0912. On September 8, 2020, the Supreme Court denied Appellant McKethan’s Petition.

2022CV372894:

On November 21, 2022, Petitioner McKethan filed a Complaint against Respondent GSLS in the Superior Court of Fulton County, Case No. 2022CV372894. Petitioner McKethan amended the Complaint on March 3, 2023 (the “Amended Complaint”). The Amended Complaint contains allegations of fraudulent concealment, slander of title,

interference with property rights, false light invasion of privacy, violation of Georgia RICO, fraud, wrongful foreclosure, breach of contract and breach of the duty of good faith and fair dealing, and intentional infliction of emotional distress. Respondent GSLS filed an Answer and a Motion to Dismiss, to which Petitioner McKethan responded. On December 19, 2023, the Superior Court granted Respondent GSLS's Motion to Dismiss (the "MTD Order"). [Petitioner's Appendix D].

Petitioner McKethan appealed the MTD Order to the Court of Appeals of Georgia, where it was docketed on May 7, 2024, as Appeal A24A1444. On March 14, 2025, the Court of Appeals affirmed the MTD Order. [Appendix G].

On April 17, 2025, Petitioner filed a Petition for Writ of Certiorari in the Supreme Court of Georgia, where it was docketed on April 17, 2025, as Case No. S25C1013 (the "GA Petition for Certiorari"),

requesting review of the Court of Appeals' affirmation of the MTD Order. On August 26, 2025, the Supreme Court of Georgia denied Petitioner McKethan's Petition for Writ of Certiorari. [Petitioner's Appendix A]. Petitioner McKethan filed a Motion for Reconsideration, which was denied on September 16, 2025. [Petitioner's Appendix B].

CONSIDERATIONS GOVERNING REVIEW

This honorable Court's Rule 10 sets out the considerations governing review on Certiorari and provides as follows:

Review on certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

- (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same

important matter; has decided on an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;

- (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
- (c) a state court of a United States court of appeals has decided an important question of federal law that has not been but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.

ARGUMENT

QUESTIONS PRESENTED

1. Whether a state may uphold a foreclosure where all statutory foreclosure notices were returned undelivered and the foreclosing party had actual knowledge that notice failed, consistent with the Due Process Clause of the Fourteenth Amendment and this Court's decisions in *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), and *Jones v. Flowers*, 547 U.S. 220 (2006).

Petitioner's first Question Presented seeks review of an alleged erroneous factual finding regarding foreclosure notices sent prior to the subject foreclosure sale. Petitioner cites *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), in the first Question Presented. In *Mullane*, Central Hanover Bank created a common trust fund and moved for judicial settlement of the trust, providing only published notice in a local paper of the pending judicial proceeding. This Court found that published notice alone violated the beneficiaries' due process

rights because many of the names and addresses of the beneficiaries were known to the Bank, and that the published notice was not adequate notice of judicial proceedings. In the case of *Jones v. Flowers*, 547 U.S. 220 (2006), the state sent out notice of a tax sale, which was returned as unclaimed. This Court found that when a notice of tax sale is returned unclaimed, the state must take additional steps to notify the property owner prior to selling the property. Both cases are inapplicable to the issues here, where the notice requirements are set out in a private contract between the parties.

The power of sale “is a purely contractual matter between two parties in the exercise of private property rights.” *Alliance Partners v. Harris Trust & Sav. Bank*, 266 Ga. 514, 515 (1), 467 S.E.2d 531 (1996), citing *Coffee Enterprises Realty & Development Co., Inc. v. Holmes*, 233 Ga. 937, 938,

213 S.E.2d 882 (1975). When a grantee in a security deed mails a correctly addressed notice of sale under power to the grantor in accordance with O.C.G.A. § 44-14-162.2, the actual receipt or lack of receipt is immaterial. *Parks v. Bank of New York*, 279 Ga. 418, 420, 614 S.E.2d 63 (2005), citing *McCollum v. Pope*, 261 Ga. 835, 411 S.E.2d 874 (1992).

The foreclosure sale is permitted under a power of sale contained in a contract between lender and debtor; and the state does not become involved in the process unless the foreclosing lender files a lawsuit to recover a deficiency. If no deficiency exists after the sale, then judicial review is not necessary. *Parks v. Bank of New York* at 419, citing *Alliance Partners v. Harris Trust & Sav. Bank*, at 515. There is no state action involved in O.C.G.A. § 44-14-162.2, and the contention that the statute violates federal due process because it does not ensure that there is

actual receipt of the notice is “wholly unavailing.”

Parks v. Bank of New York at 419.

The record below clearly supports the factual finding that the foreclosure notices were properly sent and properly addressed. Respondent included in the Appendix filed herewith, evidence of Petitioner's own statements of the correct property address to where the foreclosure notices were sent. Whether the required foreclosure notices were properly sent (which they were) and to the correct property address is solely a review of alleged erroneous factual findings and should not be reviewed by this Court.

2. Whether a foreclosure judgment entered without any notice reasonably calculated to reach the homeowner is void under the Fourteenth Amendment.

Petitioner's second Question Presented also seeks review of an alleged erroneous factual finding. As shown by Respondent above and the record, the Notice of Sale Under Power was properly addressed

and mailed to Petitioner in accordance with O.C.G.A. § 44-14-162.2 and the terms of the subject Security Deed. There is no federal or state action in non-judicial foreclosure proceedings brought pursuant to the terms of the security deed, and there is no violation of due process. *Parks v. Bank of New York*, 279 Ga. 418, 419, 614 S.E.2d 63 (2005).

The foreclosure sale at issue was non-judicial pursuant to a contract between Petitioner and the holder of the Security Deed. The state courts properly upheld the foreclosure sale, and this Court should not review the alleged erroneous factual findings.

3. Whether a state court may uphold a foreclosure based on an assignment executed by an entity that lacked legal authority included in Appendix F-2 App. 16-19 to assign the debt, consistent with the Supremacy Clause.

Petitioner's third Question Presented again asks this Court to review alleged erroneous factual

findings. As shown by Respondent above, on March 10, 2010, during the pendency of Southstar Funding's bankruptcy, the Bankruptcy Court entered an Order Granting Motion to Approve Abandonment of Interest of Estate in Mortgage Loans (the "Bankruptcy Abandonment Order"), abandoning any interest of the bankruptcy estate's interest in Southstar Funding's mortgage loans. [Petitioner's Appendix F3].

On July 27, 2012, MERS, as nominee for Southstar, executed a Corporate Assignment of Mortgage, conveying the subject Security Deed to Respondent GSLS. [Petitioner's Appendix F4]. Where a security deed expressly conveys title to the interests in the security deed to MERS, MERS has the right to assign its interests. *Montgomery v. Bank of America*, 321 Ga.App. 343, 345, 740 S.E.2d 434 (2013). Parties to a contract are presumed to have read their provisions and to have understood the contents, and

one who can read must read for he is bound by his contracts. *Swyters v. Motorola Employees Credit Union*, 244 Ga.App. 356, 358, 535 S.E.2d 508, 510 (2000). By signing the Security Deed, Petitioner agreed to the terms contained therein. Under the express terms of the Security Deed, MERS is the grantee. [Appendix A]. As the grantee, MERS was entitled to assign the Security Deed to Respondent GSLS.

Furthermore, Petitioner lacks standing to challenge the Assignment. A mortgagor lacks standing to challenge the validity of an assignment. *Montgomery v. Bank of America*, 321 Ga.App. 343, 345, 740 S.E.2d 434 (2013); *Larose v. Bank of America*, 321 Ga.App. 465, 467. 740 S.E.2d 882 (2013) (borrower lacked standing to challenge assignment from MERS to the foreclosing entity). The assignment of a security deed is a contract between the deed holder and the

assignee. *Ames v. JP Morgan Chase Bank, N.A.*, 298 Ga. 732, 739, 783 S.E.2d 614 (2016), citing *Bank of Cave Spring v. Gold Kist, Inc.*, 173 Ga.App. 679, 680, 327 S.E.2d 800 (1985).

Generally, a mortgagor lacks standing to challenge the validity of an assignment of a security deed that he is not a party to. *Ames v. JP Morgan Chase Bank, N.A.*, 298 Ga. at 737-740, 783 S.E.2d 614 (2016); *Jurden v. HSBC Mortg. Corp.*, 330 Ga.App. 179, 180, 765 S.E.2d 440 (2014); *Montgomery v. Bank of America*, 321 Ga.App. 343, 346, 740 S.E.2d 434 (2013).

Respondent submits that the lower courts properly dismissed this claim and it should not be reviewed by this Court.

4. Whether the doctrine of res judicata may bar a homeowner's constitutional challenge to a foreclosure where notice failure and lender misconduct were concealed and could not have been litigated in the prior action, contrary to this Court's precedents in *Peralta v. Heights Medical Center, Inc.*, 485 U.S. 80 (1988), and *Armstrong v. Manzo*, 380 U.S. 545 (1965).

Petitioner's fourth Question Presented alleges the misapplication of a properly stated rule of law. On August 8, 2018, the Superior Court of Fulton County granted Respondent GSLS's Motion for Summary Judgment. [Petitioner's Appendix G]. Petitioner appealed that Order to the Court of Appeals of Georgia, Appeal No. A19A1859. In her Brief of Appellant, on Pages 24-26, Petitioner made the same claims regarding the notice of sale.

"The trial Court in its order on page 2 reasserted the claims of Defendant's AFFIDAVIT OF LISA GLOYNA in support of summary judgment, (R1 1-48), stating as its conclusion that: 'that on January 4, 2013, Defendant sent a letter to Plaintiff McKethan via certified

mail and first class mail, advising her that a foreclosure sale was scheduled for February 5, 2013, and enclosing a copy of the Notice of Sale Under Power.’ GSLS was fully aware from their own experience with the post office over the years, 2407 Cross St., Atlanta, GA 30318 is not a fiscal address for 7 Cross St. Atlanta, GA 30318 because when the builder built the home he changed the street address to **7 Cross St. Atlanta, GA 30318** with the post office and only the tax records has this as the address but any mail going to this address will go back to the sender as an unknown address because the builder had 2407 legally removed as an address and there was no way to receive mail at that old address.”

The Superior Court’s Order Granting Defendant’s Motion to Dismiss in Case No. 2022CV372894 (the second case) was based on *res judicata* and *collateral estoppel*, was correct and was properly affirmed by the state appellate courts. This Court should not review the alleged misapplication of a properly stated rule of law.

In summation, the Petition consists of claims of erroneous factual findings and/or the misapplication of a properly stated rule of law. There are no disagreements between the lower courts. The state court of last resort has not decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals. The underlying case (Petitioner's Amended Complaint) is based on a private contract, alleges violations of state law, presents no questions of federal law, and is not a matter of great concern, gravity, or importance to the public.

CONCLUSION

WHEREFORE, Respondent GSLS respectfully prays that this honorable Court deny the Petition for Writ of Certiorari.

Respectfully submitted this 16th day of January, 2026.

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CORPORATE DISCLOSURE STATEMENT

Appellee GSLS GA, LLC is a limited liability company corporation organized in the State of Georgia. There is no parent corporation or any publicly held corporation that owns 10% of the stock of Appellee GSLS GA, LLC.

Respectfully submitted this 16th day of January, 2026.

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CERTIFICATE OF COMPLIANCE

I certify that the above BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI does not exceed the word limit imposed by Rule 33. The number of words contained in this document are 3,316.

Respectfully submitted this 16th day of January, 2026.

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CERTIFICATE OF SERVICE

The undersigned certifies that a precise copy of the above **BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI** was served upon the following by emailing a copy and mailing three bound copies by United States First Class Mail in a properly addressed envelope with adequate postage affixed to ensure delivery, addressed as follows:

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Respectfully submitted this 16th day of
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